

REMARKS

In the Restriction Requirement mailed December 1, 2003, the Examiner has required election among Group I (claims 1-16), Group II (claims 17-23) and Group III (claim 24). The Examiner also stated that the application contained claims directed to seven (7) patentably distinct species of the claimed invention as illustrated in Figures 1-7, respectively. Applicant respectfully disagrees and traverses the Examiner's requirement.

As described above, Applicant elects Group I (claims 1-16) with traverse for prosecution on the merits. With respect to the election of species, Applicant respectfully submits that the requirement is clearly improper. Applicant elects species I as categorized by the Examiner, with traverse. Applicant believes claims 1-24 read on Figure 1.

Figures 1-7 illustrate various features and operation of the single invention as claimed in claims 1-24. Figure 1 is a block diagram illustrating an application for the invention in an internal combustion engine. As such, Figure 1 illustrates an application of the method as claimed in claims 1-16, as well as the system for controlling an internal combustion engine as claimed in claims 17-23, and a computer readable storage medium as claimed in claim 24.

Figure 2, corresponding to species II identified by the Examiner, illustrates a representative fuzzy logic implementation for determining a weighting factor. This illustrates one possible implementation of the weighting factor as generically claimed in independent claims 1, 17, and 24 and more specifically claimed in dependent claims 4-8, and 14.

Figure 3, corresponding to species III identified by the Examiner, is a representative torque monitor, which corresponds to one implementation of a system, method, or storage medium for a parameter monitor of the present invention as generically claimed in independent claims 1, 17, and 24 and dependent claims 3, 4, 5, 6, 7, 8, 9, 14, 15, 16. Dependent claims directed specifically to a torque monitor as illustrated in Figure 3 include claims 2, 10, 11, 12, 13, 18, 19, 20, 21, 22, 23.

Figure 4, corresponding to species IV identified by the Examiner, is a flow diagram illustration operation of a system, method, or storage medium of a parameter monitor according to the invention. All claims 1-24 read on Figure 4.

Figures 5-7, corresponding to species V, VI, and VII identified by the Examiner, illustrate performance of the present invention as claimed in claims 1-24 relative to the prior art and do not illustrate patentably distinct embodiments of the invention as proposed by the Examiner.

Applicant respectfully requests reconsideration and withdrawal of the restriction requirement. The Examiner supports the requirement citing separate classifications for the inventions of Groups I-III including 123/406.11, 123/406.23, and 701, respectively. Applicant respectfully submits that a proper field of search for the three inventions identified by the Examiner would include all of the above related classifications and as such would not require any additional burden. While Applicant does not believe the inventions identified by the Examiner are independent and distinct as required, "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." MPEP §803.

Summary

Applicant has made a genuine effort to respond to the Examiner's requirement for election/restriction and has traversed the requirement while identifying claims for substantive prosecution. Applicant respectfully requests the Examiner to reconsider and withdraw the requirement. Applicant reserves the right to petition the requirement if it is not withdrawn and pursue the non-elected claims in this or another application.

Applicant requests a one-month extension of time to respond to the Restriction and/or Election Requirement mailed December 1, 2003. Please charge the fee of \$110.00 for a large entity to Deposit Account 50-2841 (Bir Law, PLC).

The Examiner is requested to telephone the undersigned to discuss this response or any other matters to advance the prosecution of this application.

Respectfully submitted,



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